



2025:DHC:8595-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3599/2023

MOHIT KUMARPetitioner

Through: Mr. Ranbir Singh Kundu, Mr. Shitanshu Saklani, Mr. Manish Kumar and Mr. Prakhar Londhe, Advs.

versus

SASHASTRA SEEMA BALRespondent

Through: Mr. Virendra Pratap Singh Charak and Ms. Shubhra Parashar, SPCs with Mr. Rahul Kumar Sharma, GP

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

24.09.2025

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C. HARI SHANKAR, J.

1. The petitioner was appointed as Constable (GD) in the Sashastra Seema Bal¹ by order dated 7 December 2017. The appointment was purely temporary in nature. Clause 3(i) of the appointment order reads, thus:

“3(i) He/She will be on probation for two years from the date of his/her appointment in SSB, which may be extended or curtailed at the discretion of the competent authority as prescribed under SSB Rules but the total period of extension of probation shall not, except where it is necessary, by reasons of any departmental or legal proceedings pending against him/her, exceed two years. During the period of probation, he/she may be required to undergo such training and to pass such tests as the Department may prescribe from time to time.”

¹ “SSB” hereinafter



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2. Thus, the petitioner was on probation for two years. The probation period could be extended or curtailed at the discretion of the competent authority, as prescribed in the SSB Rules, with a maximum period of extension of probation of two years. In other words, the maximum permissible probation period was four years.

3. Consequent on an FIR dated 18 February 2018, which was lodged against the petitioner under Sections 377 and 511 of the IPC read with Section 4 of the POCSO Act, the petitioner was subjected to a criminal trial, which ultimately ended in his acquittal by judgment dated 25 August 2022.

4. Ms. Shubhra Parashar, learned SPC for the respondent submits that the acquittal was not honourable but was because the witness turned hostile, though Mr. Ranbir Singh Kundu, learned Counsel for the petitioner disputes this assertion.

5. We need not enter into this aspect of the matter, as the services of the petitioner were not discontinued on the ground of the pending criminal case or for any other reason connected therewith.

6. Rather, the period of probation of the petitioner was extended four times, from 26 December 2019 to 25 June 2020, 26 June 2020 to 25 December 2020, 26 December 2020 to 25 June 2021 and 26 June 2021 to 25 December 2021. The period of probation, therefore, came to an end on 25 December 2021.



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7. After the period of probation had come to an end, the petitioner was served with two show cause notices dated 22 January 2022 and 14 May 2022. The petitioner submitted his replies to the said show cause notices. Both the show cause notices required the petitioner to show cause as to why his services be not terminated *for non-completion of his probation period under Rule 15² of the SSB Rules, 2009.*

8. After the petitioner has submitted his replies to the said show cause notices, the services of the petitioner were terminated by order dated 1 June 2022, which may be reproduced, thus:

“Government of India
Ministry of Home Affairs
Office of the Commandant
25 Bn, SSB, Ghitori
PO-Arjangarh, New Delhi-110047

No. E-11/316/Prob-Conf. Corrsp./25 Bn/SSB/11427-49

Dated: 01/06/2022

ORDER

Whereas, on acceptance of offer of appointment issued by FHQ. SSB, New Delhi vide Memorandum No. SSB/Pers-11/2017(2)/-37567-37568 dated 07.12.2017, No. 170071752 (UIN-10021658) CT/GD Mohit Kumar was appointed as CT/GD in 25th Bn SSB w.e.f. 26.12.2017 (FN) vide order No. 1/E- 11/318/Appt. Corrsp/25 Bn/17/1320-29 dated 17.01.2018.

And whereas, as per provision contained in para-2 (ii) of

² 15. Probation –

(1) A person appointed through direct recruitment as an officer, subordinate officer, under officer or enrolled person shall be on probation for a period of two years.

(2) The Central Government in the case of officers and the authority prescribed in rule 14, in the case of subordinate officers, under officer and enrolled persons may, for the reasons to be recorded in writing, extend the period of probation for such further period or periods not exceeding two years or may during the period of probation, terminate his services without assigning any reasons.

(3) The provision of sub-rules (1) and (2) shall also be applicable to a person on his initial promotion as an officer and persons who do not complete the period of probation satisfactorily are liable to be reverted to their former rank.



offer of appointment that "The appointment is purely temporary but likely to continue. He will be on probation for a period of 02 (two) years from the date of appointment. The competent authority as prescribed under SSB Rules may, for the reasons to be recorded in writing, extend the period of probation for such further period or periods not exceeding two years or may during the period of probation, terminate his services without assigning reasons. His permanent appointment to the post, however, will depend upon various factors governing terms of permanent appointment to such post in Force at that time."

And whereas, he had completed service of 02 (Two) years on 25.12.2019, but his probation period extended to further more two years due to the reason that a court case u/s 377, 511 of IPC & Section 3/4 of the POCSO Act, is still pending against him at Udham Singh Nagar, District and Sessions Judge in the Hon'ble court of Additional District Judge/FTSC. The details of probation period extended is given below:

- (i) Extended w.e.f. 26.12.2019 to 25.06.2020, vide order No. EI1/ 316/Prob/Conf/25 Bn/G/.16/7172-74 dated 02.05.2020
- (ii) Extended w.e.f. 26.06.2020 to 25.12.2020, vide order No. EI1/ 316/Prob/Conf/25 Bn/G/16/21419-22 dated 09.11.2020
- (iii) Extended w.e.f. 26.12.2020 to 25.06.2021, vide order No. EI1/ 316/Prob. Conf/25 Bn/G/16/2956-59 dated 12.02.2021
- (iv) Extended w.e.f. 26.06.2021 to 25.12.2021, vide order No. EI1/ 316/Prob/Cont/25 Bn/G/16/14418-21 dated 17.08.2021

And whereas, as per Rule -15 of SSB Rule 2009, the probation should not be extended for more than a year and in no circumstances an employee should be kept on probation for more than double the normal period.

And whereas, court case registered against UIN-10021658, Regt. No. 170071752 CT/GD Mohit Kumar, offences punishable w/s 377, 511 of IPC & Section 3/4 of the POCSO Act, is still pending. Also, the period of probation has been extended for more than the double. Thus, the rule does not permit further extension of probation.

And whereas, Show cause notice served upon him vide



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Memo No. EI1/ 316/Prob.-/Conf./Cirrso.25 Bn/SSB/2020/1958 dated 22.01.2022 as to why he should not be discharged from service for non-completion probation period under Rule-15 of SSB Rule 2009.

And whereas, reply of the said show cause notice was received vide letter No. 223 dated 03.02.2022 which was duly considered. And whereas, on the basis of reply submitted by UIN-10021658, Regt. No. 170071752 CT/GD Mohit Kumar, this office vide letter No. E-II/Prob Conf/25th Bn/G/16/4230 dated 17/02/2022 requested FHQ SSB New Delhi for approval of competent authority for further extension of probation.

And whereas, FHQ SSB vide Fax Message No. VI/42/Inquiry/CT/PI/ (13)/20/7112 dated 13/04/2022, clarified this office to take action against the said CT/GD as per Rule - 15 of SSB Act & Rules.

And whereas, again show cause notice served upon him vide Memo No. E-II/316/Prob-Conf Corssp/25th Bn/SSB/9899 dated 14/05/2022 as to why action to terminate him tentatively from service for non completion of probation should not be initiated against him under Rule - 15 of SSB Rules 2009. In case he fails to file any reply within the stipulated period, it shall be presumed that he has nothing to put forth in his defense and action to terminate his service as purposed within the ambit of Rule - 15 of SSB Rules-2009 shall be initiated against him ex- parte.

And whereas, he has submitted reply of said show cause notice which was received on 30/05/2022 vide letter No. 1356 dated 28/05/2022 and was duly considered and found not convincing.

And whereas, ample opportunity has been given to him to clear the probation period but he has failed to do so, as per the provisions of offer of appointment.

Now therefore, in accordance with power conferred upon the undersigned under Section 11(2) of SSB Act, 2007, read with Rule-18 and Rule-15 of SSB Rules 2009, UIN- 10021658, Regt. No. 170071752 CT/GD Mohit Kumar, 25* Bn SSB, Ghitorni is hereby "TERMINATED FROM SERVICE" with immediate effect and struck off from the strength of this Bn on same date i.e. 01.06.2022. He is at liberty to prefer an appeal to Dy. Inspector General (Admn) FHQ SSB, R.K. Puram, New Delhi - 110066, with in a period of 90 days from the date of issue of this order as per provision contained under Rule 29 of SSB Rules 2009.



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Sd/-
01/6/22
(Sunil Kumar)
Commandant
25th Bn SSB, Ghitorni”

9. *Clearly, therefore, the petitioner’s services were terminated on the sole ground that he had not completed his probation period.*

10. From the time of the judgment of Vivian Bose, J. in *Commissioner of Police, Bombay v Gordhandas Bhanji*³, as relied upon by Krishna Iyer, J. in *Mohinder Singh Gill v The Chief Election Commissioner, New Delhi*⁴, the law is that an executive order has to stand or fall on the basis of the reasons contained in the order and cannot be improved by way of pleadings in the Court or arguments advanced by Counsel. As Krishna Iyer J. famously said, orders are not like old wine, becoming better as they grow older. The services of the petitioner were terminated on the ground that he could not satisfactorily complete the probation period, and for no other reason.

11. Though Ms. Parashar earnestly sought to convince us that the appointment order of the petitioner permitted his services to be terminated simpliciter on one month’s notice without assigning any reason, the termination in question is clearly not a termination in exercise of that power.

12. We do not express any opinion as to whether that course of action was available to the respondent.

³ 1951 SCC 1088

⁴ (1978) 1 SCC 405



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13. The reasons on the basis of which the petitioner was terminated from service are clearly incorrect as the petitioner's probation period came to an end much before the show cause notices were issued to the petitioner, and was satisfactorily completed by him.

14. Accordingly, we have no option but to set aside the termination of the petitioner's services.

15. Accordingly, the impugned order dated 1 June 2022 is quashed and set aside. The petitioner would be entitled to be reinstated in service with all consequential benefits including fixation of pay and seniority and continuity in service but without any backwages.

16. We do not express any opinion on whether the respondent would be at liberty to proceed against the petitioner in any other manner known to law.

17. The petition is accordingly disposed of.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

SEPTEMBER 24, 2025/AR